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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA FOURTH APPELLATE DISTRICT

DIVISION TWO

JOEL CASTRO CASTREJON,

Petitioner,

E063663

v.

(Super.Ct.No. INF1300585)

THE SUPERIOR COURT OF RIVERSIDE COUNTY,

Respondent;

THE PEOPLE,

Real Party in Interest.

OPINION

ORIGINAL PROCEEDINGS; petition for writ of prohibition/mandate. Charles Everett Stafford, Jr., Judge. Petition is granted.

John Patrick Dolan, for Petitioner.

No appearance for Respondent.

Michael A. Hestrin, District Attorney, Ivy B. Fitzpatrick, Senior Deputy District Attorney, for Real Party in Interest.

DISCUSSION

In this matter we have reviewed the record and the petition and invited a response from real party in interest. Real party in interest concedes that petitioner is entitled to the relief sought; accordingly, issuance of a peremptory writ in the first instance is appropriate. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 178.)

The issue raised by petitioner is very simple: the information filed against him contains 13 counts, but the People presented evidence to support only 10. Accordingly, the trial court should have granted petitioner's motion with respect to counts 11, 12, and 13. (The "boy's bedroom" counts.) The People concede the error.

DISPOSITION

Accordingly, the petition for writ of prohibition/mandate is granted. Let a peremptory writ of prohibition/mandate issue, directing the Superior Court of Riverside County to vacate its order denying petitioner's motion to dismiss in toto, and to enter a new order granting said motion with respect to counts 11, 12, and 13 only.

Petitioner is directed to prepare and have the peremptory writ of prohibition/mandate issued, copies served, and the original filed with the clerk of this court, together with proof of service on all parties.

In the interest of justice, this order shall be final forthwith. The stay previously ordered, having served its purpose, is lifted.

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	RAMIREZ	
We concur:		P. J.
MILLER J.		
CODRINGTON		